IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

Crl.L.P..No. 99 of 2007()

CC.443/2006 of J.M.F.C., KAYAMKULAM
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PETITIONER/COMPLAINANT:

SUDEVAN, S/O.VALSALAN,
KULANJIYIL VEEDU, KEERIKKADU THEKKUM MURI,
KEERIKKADU VILLAGE.

BY ADV. SRI.R.REJI
SMT.C.A.AJITHA SALAM

RESPONDENTS: STATE AND ACCUSED:
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1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. LAKSHMI, W/O. NARAYANAN,
VRINDAVANATHIL, CHEPPADU KIZHAKKUM MURI,
CHEPPADU VILLAGE.

R1-BY P.P.SRI. THOMAS JOHN AMBOOKKAN

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION ON 13/03/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. THANKAPPAN, J.

Crl.L.P.NO.99 OF 2007

Dated this the 13th day of March, 2007.

O R D E R

This is an application for special leave to appeal against the judgment in C.C.No.443/2006 on the file of the Judicial Magistrate of First Class, Kayamkulam. It is stated in the complaint that the 2nd respondent had issued a cheque in favour of the petitioner/complainant for discharge of an amount of Rupees Two lakhs and when the cheque was presented for encashment, the same was dishonoured on the ground of insufficiency of fund in the account of the account holder. After receipt of intimation from the Bank and on complying the statutory provisions regarding notice, the petitioner/complainant filed the complaint. To prove the case against the 2nd respondent, the petitioner/complainant himself was examined as PW1 and other two witnesses were also examined. Exts.P1 to P6 were also produced. On closing the evidence of the complainant, the 2nd respondent was questioned under Section 313 of the Code of Criminal Procedure. The 2nd respondent had denied her signature in

the cheque and even the ownership of the account from which the alleged cheque has been issued. The 2nd respondent also disputed the transaction between the appellant and her which is the subject matter of the complaint. After having considered the entire evidence adduced by the complainant, the trial court found that the petitioner/complainant miserably failed to prove that the cheque is singed by the 2nd respondent and the cheque belongs to the account of the 2nd respondent. The trial court also found that the appellant failed to prove the financial transaction which obliged to issue the cheque by the 2nd respondent to the complainant. In the above circumstances, the trial court acquitted the 2nd respondent.

2. This Court heard the learned counsel appearing for the petitioner/complainant and had perused the judgment of the trial court. After considering the entire matter afresh, this Court is of the view that the trial court had considered the evidence adduced before the court. It could be seen that the appellant had not proved any case against the 2nd respondent with regard to the issuance of the cheque or to prove that the

cheque was signed by the 2nd respondent. Further there is no evidence to show that any financial transaction existed between the appellant and the 2nd respondent so as to oblige the 2nd respondent to issue any cheque as alleged in the complainant. In the above circumstances, the judgment of the trial court requires no interference by this Court.

Accordingly, the leave to appeal stands dismissed,

K. THANKAPPAN, JUDGE.

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